The term desertion as used in reference to husband and wife is generally held to contemplate a voluntary separation of one party from the other, without justification, with the intention of not returning. *Williams v. Williams,* 130 N. Y. 193; *Kikell v. Kikell,* 25 Nebr. 256, 41 N. W. 180. "Wilful desertion is the voluntary separation of one of the married parties from the other with the intent to desert." Rev. Codes of N. Dak. 1905, Sec. 4052. The word "desertion" as used in connection with the marital relation is synonymous with "abandonment." *People v. Crouse,* 83 N. Y. Supp. 812; *State v. Weber,* 48 Mo. App. 500, 504. Absence is desertion, as the term "desertion" is used making such act a ground for divorce. *Elzas v. Elzas,* 171 Ill. 632, 49 N. E. 717. By the weight of authority the refusal of sexual intercourse does not constitute desertion. *Fritz v. Fritz,* 138 Ill. 436; *Southwick v. Southwick,* 97 Mass. 327; *Segelbaum v. Segelbaum,* 39 Minn. 258; *Contra, Whitfield v. Whitfield,* 89 Ga. 471; *Evans v. Evans,* 93 Ky. 510; *Rector v. Rector,* 78 N. J. Eq. 386. Upon the point involved in the principal case what little authority there is seems to support a contrary rule, namely, that non-support is not sufficient to constitute desertion. *Proudlove v. Proudlove,* 46 Atl. (N. J.) 951; *Howell v. Howell,* 64 N. J. Eq. 191; *Bennett v. Bennett,* 43 Conn. 413; *Hammond v. Hammond,* 15 R. I. 40. To hold that non-support is desertion, is to add a meaning to the latter term which does not seem justified by its use in either ordinary or legal phraseology.

INSURANCE—REVIVER AFTER TEMPORARY BREACH OF CONDITION.—COTTINGHAM V. MARYLAND MOTOR CAR INS. CO., 84 S. E. (N. C.) 274.—*Held,* that a chattel mortgage given on the insured property merely suspended the policy and the removal of the incumbrance revived the insurance, even though the policy provided that it should be "void . . . if the property hereby insured be or become incumbered by a chattel mortgage."

The court made no attempt to review all the conflicting decisions on this question nor to reconcile them for the reason that it would have been impossible. In the case of a warranty the weight of authority seems to be that a breach *ipso facto* avoids the policy, though the breach be but temporary in character, and that there can be no reviver except by consent of the insurer; that is, there must be a new contract. *Kyte v. Com. Union Ass. Co.,* 149 Mass. 116; *Fernandez v. Great Western Ins. Co.,* 48 N. Y. 571. Logically the breach of a condition should have the same effect as a breach of warranty but the weight of authority does not so consider it. The cases allowing a reviver where there is no provision in the policy against change of interest by mortgage may perhaps be distinguished though the same reasons are given in both. *Worthing v. Bearse,* 12 Allen 382; *Lane v. Maine Mut. Fire Ins. Co.,* 12 Me. 44. The confusion is made worse by the fact that the same courts have arrived at different conclusions in dealing with different conditions and sometimes with the same condition. Compare *Tompkins v. Hartford Fire Ins. Co.,* 49 N. Y. Supp. 184 with the *dictum* in *Gray v. Guardian Ass. Co.,* 31 N. Y. Supp. 237; *Ring v. Phoenix Assur. Co.,* 145 Mass. 426 (holding that vacancy merely suspended the policy); *Hinckly v. Germania Fire Ins. Co.,* 140 Mass. 38 (holding that temporary failure to renew license for a

billiard table as provided did not avoid the policy); *Kyte v. Com. Union Ass. Co., supra; Hill v. Middlesex Mut. Assur. Co.*, 174 Mass. 542 (holding that increase of risk absolutely forfeited the policy). The courts of Illinois have often and consistently held that a breach of condition merely suspends the policy. *Trader's Ins. Co. v. Catlin*, 163 Ill. 256 (increase of risk); *Germania Fire Ins. Co. v. Klewer*, 129 Ill. 599 (other insurance); *Insurance Co. of N. A. v. Garland*, 108 Ill. 220 (unoccupancy); *Crete Farmers Mut. Twp. Ins. Co. v. Miller*, 70 Ill. App. 599 (unauthorized use of the premises). For a review of the authorities see *Sumter Tobacco Warehouse Co. v. Phoenix Ins. Co.*, 10 L. R. A. (N. S.) 736, 56 S. E. (S. C.) 654. The cases allowing reviver of a policy after a temporary breach of condition have stretched the rule that policies of insurance are construed in favor of the insured. The only remedy for the conflicting state of the law on practically every question in insurance is a uniform statute such as the Sales Act and the Negotiable Instruments Law.

JUDGMENT—COLLATERAL ATTACK—ERROR—FRAUD.—YOUNG V. WILEY, 107 N. E. (IND.) 278.—*Held*, a judgment of a court of competent jurisdiction cannot be collaterally impeached because erroneous, though it may be impeached for want of jurisdiction or because it was procured through fraud.

A collateral attack is an attempt to impeach a judgment or decree in a proceeding not instituted for the express purpose of annulling, correcting or modifying such judgment or decree. *17 Am. & Eng. Encyc. of Law 848.* Errors of law which might be corrected on appeal by proper proceedings cannot be made the ground of collateral attack on a judgment. *Jones v. Edeman*, 223 Mo. 312. Whenever judgment is absolutely void, it is subject to collateral attack. *Barnett v. Bauer Cooperage Co.*, 145 Ky. 163. A judgment or decree rendered without jurisdiction is absolutely void. *Buffum v. Ramsdell*, 55 Me. 252; *Denk v. Fiel*, 249 Ill. 424. The test of jurisdiction is whether the court had power to enter upon the inquiry; not whether its conclusion was right or wrong. *Board of Comm. of Lake County v. Platt*, 79 Fed. 567. And where the court has jurisdiction to enter a default, a judgment on default is as conclusive against collateral attack as any other form of judgment. *Ruppin v. McLachlen*, 122 Iowa 343. In order to make a judgment void, the want of jurisdiction over the parties or the subject-matter must appear on the face of the judgment record. *Hahn v. Kelly*, 34 Cal. 391. But a few courts hold that the recital of the record does not impart absolute verity and may be controverted by evidence *aliunde*. *Ferguson v. Crawford*, 86 N. Y. 609. Where court had jurisdiction of the parties and subject-matter, it is well settled that the judgment is not void, though erroneous, and cannot be impeached collaterally. *Smith v. Schlink*, 44 Colo. 200; *Torey v. Bruner*, 60 Fla. 365. A judgment will not be set aside in a collateral proceeding because it was founded on a fraudulent instrument or perjured evidence, or for any matter which was actually presented and considered in the judgment assailed. *United States v. Throck-*